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OCA 87-3968

28 August 1987



MEMORANDUM FOR (See Internal distribution)

FROM:

[Redacted]

Deputy Director for Legislation
Office of Congressional Affairs

STAT

SUBJECT:

Draft Intelligence Community Legislative
Program for Second Session of the 100th
Congress: Final Request for Comments

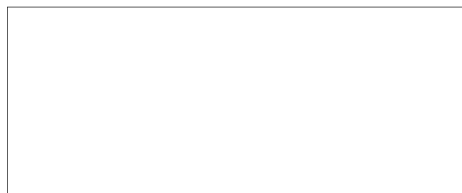
REFERENCE:

Memo from [Redacted] to Internal and External
Distribution, dated 24 July,
Subject-Legislative Program.

STAT

1. We have received several additional legislative proposals as a result of our request for comments on the draft legislative program submitted to you in the referenced memo. These additional proposals have been incorporated into the attached legislative program that we propose the Director send to OMB.

2. If you have any other comments on the revised legislative program, it is important that we receive these comments no later than 8 September. Thanks for your cooperation.



STAT

Attachment as
stated

100-13

OCA 87-3968
28 August 1987

SUBJECT: Draft Intelligence Community Legislative Program
for Second Session of the 100th Congress
Request for Comments

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STAT

28 AUG 1987

CENTRAL INTELLIGENCE AGENCY
AND
INTELLIGENCE COMMUNITY
PROPOSED LEGISLATIVE PROGRAM
FOR THE
SECOND SESSION OF THE 100th CONGRESS

LEGISLATIVE PROPOSALS

100/2 - 1:

Fiscal Year 1989 Intelligence
Authorization Act

The Director of Central Intelligence will submit to the Office of Management and Budget for clearance a proposed Fiscal Year 1989 Intelligence Authorization Act for transmittal to the Congress.

100/2 - 2:

Protection of Intelligence Information

The Director of Central Intelligence may propose legislation to provide criminal penalties for the unauthorized disclosure of classified information by Federal employees, or others having authorized access to classified information. The DCI may support this proposal as contained in other legislation.

100/2 - 3:

Department of Defense Proprieties

At the request of the Department of Defense, the Director of Central Intelligence will include in the proposed Fiscal Year 1989 Intelligence Authorization Act legislation which would grant the Department of Defense authority to establish and operate corporations or other business entities in support of authorized and appropriately coordinated intelligence activities and may support this proposal as contained in other legislation.

100/2 - 4:

Clarification of Security Authorities

In order to ensure the integrity of security investigations and determinations, the Director of Central Intelligence may include in the Fiscal Year 1989 Intelligence Authorization Act legislation to clearly establish that the authority of Executive Branch officials to make security clearance and access determinations is committed to the discretion of Executive Branch officials by law and not subject to administrative or judicial review under the provisions of any statute.

100/2 - 5:

Clarification of CIA/NSA/DIA Drug and Alcohol Abuse Authorities

In light of the uncertainty created by recent case law concerning alcohol and drug abuse, the Director of Central Intelligence may include in the Fiscal Year 1989 Intelligence Authorization Act legislation to ensure that the Central Intelligence Agency, the National Security Agency and the Defense Intelligence Agency are able to continue to deal with security problems in the area of alcohol and drug abuse without regard to the provisions of any other law, rule, or regulation.

100/2 - 6:

Death in Service Benefits

If it does not become law as part of the Fiscal Year 1988 Authorization Act, the Director of Central Intelligence may propose legislation to amend the law governing the Central Intelligence Agency Retirement and Disability System (CIARDS) so as to provide death in service benefits to qualifying former spouses retroactive to November 15, 1982. The Director of Central Intelligence may also propose legislation that would provide death in service benefits to pre-1982 qualified former spouses.

100/2 - 7:

Access to Credit Union Records

The Director of Central Intelligence may include in the proposed Fiscal Year 1989 Intelligence Authorization Act legislation that would allow the Office of Security at CIA access to credit union records of employees of the CIA when evidence of of employee financial difficulties or irregularities exist.

100/2 - 8

INS Record Keeping Exemption

The Director of Central Intelligence may include in the proposed Fiscal Year 1989 Intelligence Authorization Act legislation that would authorize the Attorney General to exempt intelligence agencies from the record keeping requirements associated with the preparation and retention of INS Forms I-9 if the administrative procedures of the intelligence agency meet the underlying requirement of the Act.

100/2 - 9

Civilian Personnel Ceilings

The Director of Central Intelligence may include in the proposed Fiscal Year 1989 Intelligence Authorization Act legislation which waives Congressional authorization of civilian personnel end strength levels. This legislation would be similar to that contained in the DoD appropriations legislation for Fiscal Year 1987.

100/2 - 10

Exemption From Federal Employees Health Program

The Director of Central Intelligence may include in the proposed Fiscal Year 1989 Intelligence Authorization Act legislation that would authorize the Central Intelligence Agency to withdraw from the Federal Employees Health Benefit Program and to administer a separate insurance program tailored to its employees and retirees.

100/2 - 11

SIS Leave Conversion

The Director of Central Intelligence may include in the proposed Fiscal Year 1989 Intelligence Authorization Act legislation that would allow SIS employees to convert to cash any annual leave balances in excess of a set amount each year.

100/2 - 12

Recalculation of Average Pay for Retirement Purposes

The Director of Central Intelligence may include in the proposed Fiscal Year 1989 Intelligence Authorization Act legislation that would include bonuses in the definition of basic pay used in the computation of the "high-three" average pay for retirement purposes. Appropriate safeguards would be included to prevent abuses of the retirement system resulting from giving these bonuses for only a few years and thereby artificially raising the "high-three" average pay.

100/2 - 13

Enhanced Disability Annuitant Benefits

The Director of Central Intelligence may include in the proposed Fiscal Year 1989 Intelligence Authorization Act legislation which would authorize a CIARDS disability annuitant, whose annuity was terminated and later restored, to elect life and health insurance coverage subsequent to the restoration of the disability annuity. This proposal would bring CIARDS into conformity with rules governing Civil Service Retirement System disability annuitants.

100/2 -14

New Category of Former Spouses Entitled to Survivor Benefits

In order to bring CIARDS into conformity with Civil Service Retirement System provisions, the Director of Central Intelligence may include in the proposed

Fiscal Year 1989 Intelligence Authorization Act legislation that would allow a former spouse who is not a qualified former spouses (as defined under CIARDS law) to be eligible for survivor benefits. This legislation would authorize a new category of former spouses (referred to as "previous spouses"), which would be defined as a divorced spouse who had been married for at least nine months to a CIARDS participant. A previous spouse would have no automatic entitlement to survivor benefits, but court orders and/or elections granting survivor benefits could be honored under CIARDS.

100/2 - 15

Access by FBI to Tax Records for Counter-intelligence Purposes

The Director of Central Intelligence may include in the proposed Fiscal Year 1989 Intelligence Authorization Act, at the request of the Federal Bureau of Investigation (FBI) and with the concurrence of the IRS, legislation that would authorize the FBI, upon approval by the Attorney General or his designee, to receive tax return and taxpayer information regarding individuals that are the subject of a counterintelligence investigation.

100/2 - 16:

Equalization of Uniform Allowance for Certain Foreign National Employees Employed by the Defense Intelligence Agency in Embassies Abroad

If it does not become law as part of the Fiscal Year 1988 Intelligence Authorization Act, the Director of Central Intelligence may include in the proposed Fiscal Year 1989 Intelligence Authorization Act legislation to provide the Director, DIA, the authority to pay certain foreign national employees

employed by DIA in embassies abroad an annual uniform allowance equivalent to that paid by the Department of State to foreign national employees in similar positions.

100/2 - 17:

Exemption for the Defense Intelligence Agency (DIA) from Certain Federal Personnel Data Reporting Requirements

If it does not become law as part of the Fiscal Year 1988 Intelligence Authorization Act, the Director of Central Intelligence at the request of the Defense Intelligence Agency (DIA), may include in the proposed Fiscal Year 1989 Intelligence Authorization Act a statutory exemption for DIA from certain routine, unclassified federal personnel data reporting requirements.

100/2 - 18:

Eligibility of Defense Intelligence Agency Military Attaches and Civilian Personnel Assigned to Defense Attache Offices for Department of Defense Death Gratuity for Members and Employees Assigned to Intelligence Duties Abroad

The Director of Central Intelligence may propose, at the request of the Defense Intelligence Agency, an amendment to Chapter 75 of Title 10, United States Code, to allow surviving dependents of military attaches and civilian personnel supporting such attaches killed while serving in embassies abroad to be eligible for the current Department of Defense death gratuity available to surviving dependents of members of the Armed Forces and Department of Defense employees killed while assigned to intelligence duties abroad.

100/2 - 19:

Tax Exemption for Allowances Paid to Certain NSA and DIA Employees

If it does not become law as part of the Fiscal Year 1988 Intelligence

Authorization Act, the Director will include in the proposed Fiscal Year 1989 Intelligence Authorization Act an amendment to the Internal Revenue Code to exempt from taxation allowances paid to certain NSDA and DIA employees. Currently, these same allowances as paid to employees of the Foreign Service and the Central Intelligence Agency are tax exempt.

100/2 - 20:

Retroactive Pay for Certain NSA Employees

At the request of the National Security Agency (NSA), the Director of Central Intelligence may include in the proposed Fiscal Year 1989 Intelligence Authorization Act an amendment to the NSA Act of 1959 to allow the Director, NSA, to pay certain senior NSA employees additional pay to which they would have been entitled during fiscal years 1980 and 1981 under a 1984 Seventh Circuit decision (Squillacote v United States, 739 F.2d 1208 (7th Cir. 1984), cert. denied, 105 S.Ct. 2021 (1985)) if NSA's Senior Cryptologic Executive Service had been established at the same time as the Senior Executive Service.

100/2 - 21:

NSA Graduate Studies Program

If it does not become law as part of the Fiscal Year 1988 Authorization Act, the Director of Central Intelligence may include in the proposed Fiscal Year 1989 Authorization Act an amendment to the NSA Act of 1959 to provide statutory authority for the establishment by the Director, NSA, of a graduate training program for critical skills.

100/2 - 22

Transportation of Remains

The Director of Central Intelligence may propose or support an amendment to Title 5 to authorize the payment of expenses

for transportation of remains, dependents, and effects of an employee of the United States who dies while on a rotational tour of duty within the United States at a place away from his or her permanent home.

100/2 - 23

Pay Advance

The Director of Central Intelligence may propose or support an amendment to Title 5 to authorize advances of up to three months pay to employees reassigned for permanent duty to a new location within the United States in like manner as is authorized in cases of transfers overseas.

100/2 - 24

NSA Guard Force

The Director of Central Intelligence may include in the proposed Fiscal Year 1989 Intelligence Authorization Act legislation to authorize NSA personnel to assume, with respect to certain NSA facilities, the protective functions currently performed pursuant to delegation by the General Services Administration.

100/2 - 25

Impact of Export Control Regulations on the Intelligence Community

The Director of Central Intelligence may include in the proposed Fiscal Year 1989 Intelligence Authorization Act legislation that would require the Director of Central Intelligence to report annually to the Intelligence Committees on the impact of changes in the Export Administration Act on the functions of the Intelligence Community agencies.

110/2 - 26

Permanent Termination Authority - DIA Civilian Employees

The Director of Central Intelligence may propose as part of the Fiscal Year 1989 Intelligence Authorization Act

legislation making permanent the authority to terminate DIA civilian employees.

100/2 - 27:

Permanent Personnel Management Authority
DoD Military Intelligence Personnel

The Director of Central Intelligence may include in the proposed Fiscal Year 1989 Intelligence Authorization Act legislation making permanent personnel management authority for DoD military intelligence personnel.

100/2 - 28:

FBI New York Field Division Compensation

If it does not become law as part of the Fiscal Year 1988 Intelligence Authorization Act, the Director of Central Intelligence may include in the proposed Fiscal Year 1989 Intelligence Authorization Act legislation authorizing the Director of the FBI to pay additional compensation to the New York Field Division of the FBI to the extent appropriate to defray unusual living expenses associated with such employment.

100/2 - 29:

Secure Promotions for Certain Military Intelligence Officers

The Director of Central Intelligence, at the request of the Department of the Army, may propose or support legislation to establish a method of securely promoting certain U.S. Army military intelligence officers. Currently, these officers are promoted in accordance with an unwritten agreement between the Congress and the Executive Branch. The legislative proposal would establish a viable permanent method for their secure promotion.

100/2 - 30

Department of Defense Authority to
Accept and Transfer Foreign Material

At the request of the Department of Defense, the Director of Central Intelligence may propose or support legislation to authorize the Secretary of Defense to accept, transfer and exchange foreign material on a non-reimbursable basis and to transfer funds between appropriations when necessary for the expedited acquisition of foreign materiel.

100/2 - 31

Department of Defense Authority to
Provide Intelligence Training

At the request of the Department of Defense, the Director of Central Intelligence may propose or support legislation to authorize the Secretary of Defense to provide intelligence training to personnel from the foreign military establishment.

100/2 - 32

Foreign Language Proficiency Incentive
Pay

At the request of the Department of Defense, the Director of Central Intelligence may propose or support legislation to authorize the Defense Intelligence Agency to provide incentive pay to civilian employees for foreign language proficiency.